OFFICE OF THE STATE AUDITOR

Medicaid Audit Activities

December 1, 2009 – November 30, 2010

INTRODUCTION

The Massachusetts Executive Office of Health and Human Services (EOHHS) administers the state's Medicaid program, providing access to healthcare services each year to approximately one million needy people in Massachusetts. In fiscal year 2009, the Massachusetts Medicaid program paid in excess of $6.8 billion on 66 million claims to health care providers, of which approximately 50% was funded with Commonwealth funds. Medicaid expenditures represent between 25%-30% of the Commonwealth's total annual budget. The heightened concern over the program's integrity was evidenced in January 2003, when the U.S. Government Accountability Office (GAO) placed the U.S. Medicaid Program on its list of government programs that are at "high risk" of fraud, waste, abuse, or mismanagement. GAO has estimated that between 3% and 10% of total healthcare costs are lost to fraudulent or abusive practices in the health care industry.

Based on these concerns, The Office of the State Auditor (OSA), submitted as part of its fiscal year 2007 budget proposal a request to establish a Medicaid Audit Unit within its Division of Audit Operations dedicated to detecting fraud and abuse in the MassHealth program. With the support of the State Legislature and the Governor this proposal was acted upon favorably and has continued in subsequent budgets. Since this time, the Office of the State Auditor has maintained ongoing independent statutory oversight of the Massachusetts Medicaid program. Audit reports issued by the OSA have continued to identify significant weaknesses in MassHealth's ability and efforts to detect fraud, waste, abuse, and mismanagement in the Massachusetts Medicaid program as well as improper and potentially fraudulent claims for Medicaid services.

ACTIVITIES AND ACCOMPLISHMENTS

During this reporting period, the OSA has completed several audits which have identified fraud, waste and abuse in Medicaid programs, significant cost savings opportunities as well as recommendations to strengthen internal controls and oversight in MassHealth's program administration.

The following is a summary of our Medicaid audit work during the indicated period:

1. *MANAGEMENT OF ADVANCED IMAGING PROCEDURES REPORT NO. 2008-1374-3S1 (issued September 1, 2010)*

In fiscal year 2009, MassHealth paid in excess of $94 million on approximately 2.5 million claims to 660 providers for radiology services. Within radiology, there are three particular imaging modalities we have collectively termed "advanced imaging": computed tomography (CT), magnetic resonance imaging (MRI), and positron emission tomography (PET). In fiscal year 2009, MassHealth paid in excess of $30 million on approximately 582,000 claims for advanced imaging services. Advanced imaging services accounted for 22.7% of the quantity and 32.7% of the total radiology claims paid. The volume of advanced imaging services provided to consumers has increased dramatically over the past decade. Many experts attribute this growth to the increased utilization of advanced imaging in expanded procedures for both diagnostic and medical treatments. In response to rapid and sustained growth in the volume of advanced imaging services, there is concern by federal and state governments about potential over-utilization, and they are responding with regulatory initiatives. Of particular concern is physician self-referral of a patient to a specialized medical facility performing advanced imaging services, in which the referring physician has a financial interest. To discourage and regulate physician self-referral, the federal government enacted the Ethics in Patients Referrals Act, also known as the Stark Law, in 1989. However, this law does contain a number of exceptions which makes the law less effective, unless states adopt provisions to limit or eliminate these exceptions. A physician also cannot offer anything of value to induce federal healthcare program business. The statute includes numerous permitted "safe harbors," such as investments in group practices. During our audit, we identified the following two issues relative to advanced imaging services within the Commonwealth:

a. Massachusetts does not have a set of safeguards to control potential conflicts of interest physicians may have in the provision of advanced imaging procedures and regulatory control over medical diagnostic equipment standards and maintenance.

b. Increases in MassHealth's reimbursement rate and the rate-setting methodology may have caused potential lost savings of $8,587,612 to the Commonwealth.

2. MASSHEALTH'S ADMINISTRATION OF DENTAL PAYMENTS REPORT NO. 2009-8018-14C (issued November 16, 2010)

The goals of MassHealth's Dental Program are to improve member access to quality dental care; improve oral health and wellness for MassHealth members; increase provider participation in the Dental Program network; streamline program administration to make it easier for providers to participate; and create a partnership between MassHealth and the dental community. MassHealth has approved over 5,000 dentists as participating providers in the Dental Program and according to MassHealth officials, as of June 2010, there were approximately 2000 dentists who were actively participating in the program. In fiscal year 2009, MassHealth paid 4,668,657 dental claims totaling $300,961,788, or an average of 12,790 claims and $824,552 in payments daily.

EOHHS has awarded a contract to Dental Services of Massachusetts, Inc., (DSM) to administer the Dental Program. Initially, this contract had a three-year term of August 1, 2006 to July 31, 2009, but both parties have since agreed to extend the service contract through June 30, 2010. DSM performs its contractual responsibilities through a subcontractor currently known as DentaQuest, LLC (DentaQuest). Under the contract, DentaQuest has both programmatic and administrative responsibilities, including (a) dental provider network administration services, (b) customer services, (c) claims administration and processing, (d) contract administration and reporting, and (e) quality improvement/utilization management. MassHealth's administrative responsibilities under the contract include reviewing DentaQuest's performance to verify compliance with the terms of the contract and any applicable laws, rules, and regulations. Our audit identified significant problems in the manner in which MassHealth was administering claims for dental services as follows:

a. MassHealth has not adequately controlled dental radiograph (X-Ray) services performed by providers, which resulted in Commonwealth overcharges totaling as much as $5,206,017, including potentially fraudulent billings for services never provided, and its members receiving unnecessary services involving radiation exposure,

b. MassHealth has not adequately controlled orthodontic services, which resulted in Commonwealth overcharges totaling as much as $321,553 at one provider, including potentially fraudulent charges for services not performed,

c. DentaQuest's failure to properly adjust billings from dental providers resulted in unnecessary dental program costs totaling at least $162,863, and

d. Duplicate payments totaling at least $2,694 made to dental providers.

3. ***PAYMENTS FOR HOME HEALTH SERVICES-(to be issued December 2010)***

MassHealth's Home Health Services (HHS) program provides payment for HHS, including skilled nursing, home health aide, and therapeutic services (physical, occupational, and speech and language) that are medically necessary to eligible MassHealth members who are under the care of a physician and who reside in non-institutional settings, which may include the member's home, a homeless shelter, or other temporary residence in a community setting. HHS are provided through contracts with home health agencies (HHAs) and independent nurses (INs). In fiscal year 2008, MassHealth processed approximately 1.2 million HHS claims and paid approximately $145 million to HHAs and INs for the care of approximately 18,000 MassHealth members. The HHS program is representative of the Commonwealth's "Community First Policy," which follows a national trend towards generally less costly community-based services. It is intended to reduce the need for more costly hospitalization and institutionalization and to help members maintain their independence and quality of life.

Our audit revealed that MassHealth has not established adequate internal controls over certain activities in its HHS program. As a result, we found that MassHealth paid a number of questionable and potentially fraudulent claims and should consider making improvements to how program services are administered to better ensure that quality care is provided to its members in a safe environment and in the most efficient and cost-effective

manner. Our audit has identified the following issue and makes a number of recommendations on how to address this issue.

a. Inadequate internal controls in MassHealth's HHS program have resulted in questionable payments for home health services and a lack of assurance that program services are being provided in the safest and most efficient manner.

Our audit revealed that inadequate internal controls over MassHealth's HHS program have resulted in claims being paid that were: (a) potentially fraudulent,(b) inaccurately billed,(c) not billed in compliance with regulations,(d) not representative of the least costly form of comparable care available in the community, and (e) for services that may have been rendered under conditions that may compromise the safety and quality of care of MassHealth members.

INITIATIVES

Member Eligibility

The OSA is currently conducting an audit of MassHealth's eligibility & application policies and procedures. The overall objective of this audit is to determine whether MassHealth has established adequate controls over the process it used to determine eligibility for program service to ensure that only eligible consumers are enrolled in FY 2009.

Eligibility rules for Medicaid services vary from state to state and consequently, a person that has been found to be ineligible for Medicaid services in one state may be eligible for services in Massachusetts. Massachusetts has one of the more generous Medicaid programs in the nation. In federal fiscal year 2009 it ranked among the 50 states as: fifteenth in general population; eighth in total Medicaid spending; fourth in Medicaid spending per capita population; thirteenth in percent of population on Medicaid; and ninth in spending per enrollee. Consequently, there is an incentive for non-residents to try to obtain Medicaid services within the Commonwealth.

Individual Orthodontic Providers

The OSA has initiated audits at four MassHealth orthodontic providers. The purpose of these audits is to determine whether or not the orthodontic services billed by these providers during our audit period were allowable.

Various Human Service Providers

The Commonwealth awards contracts totaling approximately $2.8 billion to human service providers. The OSA has an ongoing program of conducting audits of these human service provider state-funded contracts. We are now expanding the scope of our audits at these providers to include audit work of any Medicaid funded programs.

In conclusion, these specific audit initiatives, as well as our regular data mining efforts, will continue to enable us to identify potential fraudulent and abusive activities as well as make recommendations for cost recovery, cost savings and internal control improvements. Further, our coordinated efforts internally with our Bureau of Special Investigations, as well as our strong external working relationship with the Attorney General's Medicaid Fraud Control Unit and the U.S. Department of Health and Human Services, Office of the Inspector General have assisted in our work.